

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE)
COMPANY, INC.,) Case No.:
) 3:21-cv-03496-VC
Plaintiff,)
) Lead Case No.:
vs.) 3:21-cv-03825-VC
)
INTUITIVE SURGICAL, INC.,) Pages 1 to 65
)
Defendant)
_____)
IN RE: DA VINCI SURGICAL ROBOT)
ANTITRUST LITIGATION)
_____)
THIS DOCUMENT RELATES TO:)
ALL ACTIONS)
_____)

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DEPOSITION OF:

KEITH ROBERT JOHNSON

IN HIS PERSONAL CAPACITY

THURSDAY, OCTOBER 27, 2022

1:27 p.m.

REPORTED BY:

Vickie Blair

CSR No. 8940, RPR-CRR

JOB NO. 5539883

PAGES 1 - 68

Page 1

Deposition of KEITH ROBERT JOHNSON, the witness, taken
on behalf of the Defendant, on Thursday,
October 27, 2022, 1:27 p.m., before VICKIE BLAIR,
CSR No. 8940, RPR-CRR.

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I N D E X

WITNESS	EXAMINATION	PAGE
KEITH ROBERT JOHNSON		
	(MR. CHAPUT)	6
	(MR. SNYDER)	47
	(MR. CHAPUT)	58

INFORMATION REQUESTED

None

QUESTIONS INSTRUCTED BY COUNSEL NOT TO ANSWER

None

E X H I B I T S

EXHIBIT NO.	PAGE	DESCRIPTION
Exhibit 141	25	Email chain, Bates numbers SIS000366 and SIS000367
Exhibit 142	27	Spreadsheet, Bates number SIS000167
Exhibit 143	35	Si Recycling Program form, Bates number SIS196367
Exhibit 144	40	EndoWrist Recycling Program form, Bates numbers SIS146976 through SIS146978

1 Q And what is SIS's annual net profit? 13:31:44

2 A I'm not privy to that number. 13:31:54

3 Q Who owns SIS? 13:31:58

4 A Greg Posdal. 13:32:07

5 Q You mentioned also earlier that SIS is one 13:32:07

6 of three main competitors in its business. Am I 13:32:19

7 recalling that correctly? 13:32:23

8 A Yes. 13:32:24

9 Q Who are SIS's main competitors? 13:32:24

10 A STERIS IMS and AgilityHealth. 13:32:30

11 Q And are both STERIS and Agility national 13:32:38

12 ISOs? 13:32:50

13 A The IMS division of STERIS is an ISO, but 13:32:51

14 STERIS is an \$8 billion global sterilization company. 13:32:58

15 Q Do any of SIS's customers also have 13:33:03

16 contracts at the same time with either STERIS IMS or 13:33:16

17 Agility or do customers typically contract only with 13:33:23

18 one of the three organizations? 13:33:25

19 A I think typically -- typically it would be 13:33:26

20 one, but there is a lot of scenarios where two or three 13:33:30

21 organizations work with a -- any given hospital or 13:33:36

22 hospital system. 13:33:38

23 Q Does SIS compete at all with companies 13:33:38

24 like Benjamin Biomedical or Restore Robotics or 13:33:47

25 MediVision? 13:33:56

1 your answers about that timeline be roughly the same? 14:52:00

2 MR. CHAPUT: Object to the form. 14:52:06

3 THE WITNESS: Yes, I'm -- I'm -- I'm a 14:52:09

4 sales guy, I'm looking for opportunities to sell. This 14:52:11

5 robotic program created an opportunity for SIS to 14:52:15

6 substantially increase the revenue of our organization, 14:52:18

7 a great opportunity, and that was what I -- I was -- I 14:52:20

8 was pumped about the opportunity. 14:52:24

9 BY MR. SNYDER: 14:52:25

10 Q Let's -- let's go -- let's go there next. 14:52:29

11 I just have a few questions. 14:52:33

12 This morning I believe you used the word 14:52:35

13 "monumental" in connection with the level of interest 14:52:41

14 in EndoWrist repair. 14:52:43

15 Is that a word that you used in that 14:52:44

16 context, Mr. Johnson? 14:52:46

17 A I believe I did, and I don't use that word 14:52:48

18 very often. 14:52:50

19 Q And are -- are there -- are there key -- 14:52:53

20 key moments or key events that you have in mind when 14:53:01

21 you refer to the monumental level of interest in 14:53:05

22 EndoWrist repair? 14:53:08

23 MR. CHAPUT: Object to the form. 14:53:11

24 THE WITNESS: Yeah, there's -- there's a 14:53:12

25 couple very distinct meetings that stick out in my 14:53:16

1 head, yes. 14:53:18

2 BY MR. SNYDER: 14:53:20

3 Q And what -- what are those -- those 14:53:20

4 meetings that stick out? 14:53:26

5 A One of the biggest ones was the meeting 14:53:27

6 that we had with Advocate Aurora in Wisconsin. I'll 14:53:35

7 just say this, in -- in -- in every meeting that I had, 14:53:46

8 and I'm not saying some of them, I'm saying all of 14:53:50

9 them, the -- the level of interest from the people that 14:53:52

10 I met with, which was always usually the C-suite, VP of 14:53:58

11 supply chain, VP of perioperative services, chief 14:54:02

12 robotic surgeon, one of those groups, every single one 14:54:07

13 of them was absolutely excited about this program. 14:54:10

14 Every one of them used the word 14:54:15

15 "hemorrhage;" almost all -- I won't say every one, a 14:54:17

16 majority of the people I meet with said "We hemorrhage 14:54:23

17 money to Intuitive Surgical. We are looking for ways 14:54:28

18 to reduce costs." 14:54:30

19 They love the robot. They do. They all 14:54:31

20 love it. They understand what it does. 14:54:34

21 It's -- it's the -- the lack of being able 14:54:36

22 to bring these other services that we were offering to 14:54:37

23 the table to help them reduce their costs, and that was 14:54:41

24 what they were excited about. 14:54:44

25 Q A couple other names that came up earlier 14:54:51

1	today I wanted to ask about.	14:54:54
2	You testified about Vizient.	14:54:56
3	Do you recall that?	14:54:57
4	A Uh-huh.	14:54:58
5	Q And what -- what is Vizient?	14:54:58
6	A So Vizient is the largest health care GPO	14:55:01
7	in the country.	14:55:09
8	Q What was Vizient's level of interest in	14:55:10
9	EndoWrist repair?	14:55:12
10	A I have met with the CEO of Vizient, the	14:55:18
11	chief customer officer of Vizient, in fact, the chief	14:55:21
12	customer officer of Vizient scheduled a meeting with	14:55:26
13	his six high level people that run the entire country	14:55:28
14	because that's how excited they were about this	14:55:32
15	program.	14:55:35
16	They don't -- Vizient doesn't get any	14:55:36
17	value from Intuitive Surgical, they don't get admin	14:55:38
18	fees from Intuitive Surgical, they don't get anything	14:55:43
19	from Intuitive Surgical.	14:55:47
20	So the fact that SIS had a program that	14:55:50
21	could reduce costs to health care, help the hospitals	14:55:52
22	reduce their cost for robotic surgery, and they could	14:55:55
23	bring value to their customers in the robotic space was	14:55:58
24	an absolute homerun for them.	14:56:01
25	Q And could -- can you describe generally	14:56:05

1 how large Vizient is? I mean, you said they're the 14:56:11
2 largest, but what does that mean? 14:56:15
3 A Yeah, they represent, don't quote me 14:56:16
4 specifically, but they represent somewhere between 14:56:19
5 2,500 and 3,000 hospitals. 14:56:22
6 Q And what -- what's Vizient's geographic 14:56:24
7 scope? 14:56:29
8 A National, every state in the union. 14:56:29
9 Q Another -- another name that I believe 14:56:36
10 came up earlier today was Johns Hopkins. 14:56:37
11 Did you mention Johns Hopkins? 14:56:41
12 A Yes. 14:56:43
13 Q What do you recall about -- did you meet 14:56:43
14 with Johns Hopkins at any point? 14:56:45
15 A Yes. 14:56:48
16 Q What do you recall about that meeting? 14:56:48
17 A I could describe the gentleman to you 14:56:56
18 because I remember specifically what he looked like, I 14:56:57
19 believe he was the director of sourcing or the VP of 14:57:00
20 supply chain, and forgive me for not remembering his 14:57:04
21 title specifically, that meeting was teed up by the 14:57:08
22 Vizient director that -- the client executor that 14:57:13
23 managed that relationship with Johns Hopkins, and they 14:57:17
24 told them that they had a vendor that had a cost 14:57:19
25 savings program around robotic surgery. 14:57:21

1 So me and one of my people spent an hour 14:57:24
2 on the phone with him, he was all about it, he loved 14:57:26
3 it, he -- we ended that call with him saying, "Keith, 14:57:32
4 let me talk to legal and supply chain, we'll look over 14:57:37
5 our contract, and we'll get back with you." 14:57:40
6 Q Now, you -- you've been in the -- in the 14:57:45
7 industry about 25 years or so. 14:57:48
8 Do I have that about right? 14:57:50
9 A Yes, since about late '99. 14:57:52
10 Q Okay. So since -- since '99, you've 14:57:54
11 gained a lot of experience. 14:58:01
12 Is that fair to say? 14:58:02
13 MR. CHAPUT: Objection to form. 14:58:04
14 BY MR. SNYDER: 14:58:08
15 Q Is it fair to say you're experienced in 14:58:08
16 the industry, Mr. Johnson? 14:58:10
17 A I would say yes. 14:58:11
18 Q And what's your view of Johns Hopkins' 14:58:12
19 level of sophisticated when it comes to patient safety? 14:58:17
20 MR. CHAPUT: Object to the form. 14:58:21
21 THE WITNESS: I don't think you would get 14:58:25
22 any higher. 14:58:26
23 BY MR. SNYDER: 14:58:30
24 Q Move on to another name. 14:58:32
25 Another one I believe that came up is Mayo 14:58:33

1 Clinic. 14:58:33

2 Did I get that right? 14:58:37

3 A Yes, sir. 14:58:38

4 Q And did you ever talk with or meet with 14:58:39

5 the Mayo -- representatives of the Mayo Clinic? 14:58:41

6 A Yes. 14:58:44

7 Q And what -- was it an in-person meeting? 14:58:44

8 A They all took place over Zoom. 14:58:50

9 Q Okay. This is during the -- during the 14:58:52

10 pandemic? 14:58:54

11 A Yes, sir. 14:58:54

12 Q And what -- what do you recall about that 14:58:56

13 Zoom meeting with the Mayo Clinic? 14:58:58

14 A The meetings have all gone the same, and I 14:59:07

15 say that with all honesty, they -- they have a vested 14:59:09

16 interest in finding ways to reduce costs on their 14:59:14

17 robotic surgery. We explained to them the program, 14:59:17

18 they're excited about it. 14:59:21

19 And I didn't finish my statement before 14:59:22

20 about Johns Hopkins. 14:59:24

21 "Keith, this sounds great, let us do our 14:59:28

22 due diligence and we'll get back to you." Every single 14:59:31

23 one of those groups have come back, either via email or 14:59:35

24 a phone call saying, "Keith, Intuitive does not allow 14:59:39

25 us, they will not allow us to do your program, our 14:59:44

1 contracts won't allow us to do it. We're being told 14:59:47
2 that this is void our warranty, we're being told this 14:59:51
3 will void our service agreement. As much as we want to 14:59:53
4 do it, we -- we can't take the risk of being penalized 14:59:55
5 or "being" -- I'm trying to think of the word they 14:59:58
6 always use -- or -- "or the pressure we would get from 15:00:02
7 Intuitive Surgical." 15:00:05

8 Q Okay. And I want to come back to that in 15:00:08
9 a -- in the next question, the question after this one. 15:00:11

10 But my first question is: What, given 15:00:14
11 your several decades of experience in this industry, 15:00:17
12 what's your view of the Mayo Clinic's level of 15:00:22
13 sophistication when it comes to patient safety? 15:00:26

14 MR. CHAPUT: Object to the form. 15:00:28

15 THE WITNESS: I would say there's four 15:00:29
16 hospital systems in the U.S. that kind of standalone, 15:00:34
17 and I think if you asked anybody in health care, they 15:00:38
18 would say the Mayo Clinic, the Cleveland clinic, Johns 15:00:41
19 Hopkins, and Cedars-Sinai are probably the four most 15:00:46
20 renowned teaching, quality of care, standard of care 15:00:54
21 organizations in the U.S. 15:00:59

22 BY MR. SNYDER: 15:01:07

23 Q And it's fair to say the Mayo Clinic 15:01:07
24 was -- was interested in EndoWrist repair? 15:01:10

25 MR. CHAPUT: Object to the form. 15:01:13